

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re

STEPHEN L. DIKE
DEBORAH L. DIKE,

Debtors,

STEPHEN L. DIKE, and
DEBORAH L. DIKE, and
JAN M. SENSENICH, Chapter 13 Trustee

Plaintiffs,

vs.

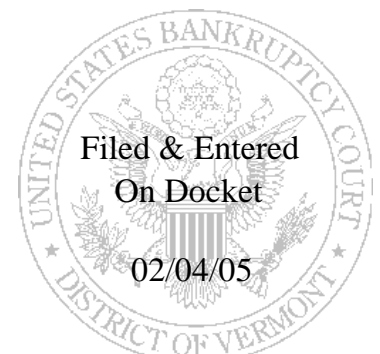
INDYMAC BANK, F.S.B.,

Defendant.

Case No. 04-11451 CAB
(Chapter 13)

STIPULATED ORDER RE TURNOVER OF
FUNDS BY INDYMAC BANK, F.S.B. TO
CHAPTER 13 TRUSTEE

Adversary Proceeding No. 04-01084 CAB



ORDER RE TURNOVER OF FUNDS BY INDYMAC BANK, F.S.B. TO
CHAPTER 13 TRUSTEE

On or about December 21, 2004, Debtors and Jan M. Sensenich, Chapter 13 Trustee ("Trustee"), filed an adversary complaint against IndyMac Bank, F.S.B. ("IndyMac") claiming that four outstanding checks issued pre-petition by IndyMac to Debtors' unsecured creditors on account of Debtors' mortgage note should be reissued to Plaintiffs for the benefit of the Debtors' bankruptcy estate (the "Complaint"). The Trustee, IndyMac and Debtor's counsel have conferred regarding the Complaint, and the parties have agreed and stipulated to the following:

1. On September 25, 2004, Debtors entered into a mortgage note and deed with IndyMac on their home located in Licicester, Vermont, for the original principal amount of \$108,000.00 (the "Mortgage").

2. IndyMac tendered four checks to Debtors for use as a pay down to four of their unsecured creditors. These checks were issued as follows: Sherman Acquisition in the amount of \$1,880.00; Portfolio Recovery in the amount of \$1,251.00; David Taylor in the amount of \$3,122.00; and Arrow Financial Service in the amount of \$764.00 (collectively, the "Pay Down Funds").

3. The Pay Down Funds were not tendered by the Debtors to the aforesaid unsecured creditors prior to their bankruptcy filing.

4. Upon Order of this Court, IndyMac will cancel the four outstanding checks constituting the Pay Down Funds.

5. Also upon Order of this Court, IndyMac will issue a check equal to the amount of the Pay Down Funds (\$7,016.00) to the Trustee for the benefit of the Debtors' bankruptcy estate ("Reissued Check").

6. The Reissued Check shall be deemed to have the same status and priority as the original Mortgage recorded on October 7, 2004, Book 59, Pages 501-511.

7. The issuance of the Reissued Check shall not affect IndyMac's status as a secured creditor for the full amount of the Mortgage.


8. The original mortgage documents between IndyMac and Debtors are not altered or amended in any way by this stipulation.

The Court, having considered the pleadings and papers on file in connection with this matter, and the stipulation between Trustee and IndyMac, and for good cause, hereby orders as follows:

1. The above stipulation is approved in its entirety.
2. The above-described Pay Down Funds constitute property of Debtors' bankruptcy estate.
3. Any payment to the aforesaid unsecured creditors from the Pay Down Funds would be recoverable by the Plaintiffs as an avoidable post-petition transfer.
4. IndyMac Bank, F.S.B. shall cancel the checks for the Pay Down Funds and issue a replacement check to the Trustee in the amount of \$7,016.00.
5. The Reissued Check shall be deemed part of the original mortgage between Debtors and IndyMac, and shall have the same status and priority as such.

IT IS SO ORDERED.

Dated: February 4, 2005

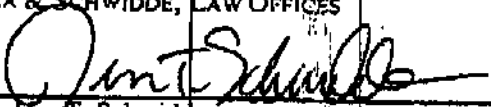

Hon. Colleen A. Brown
United States Bankruptcy Court Judge

Agreed as to form and content:

ALLEN MATKINS LECK GAMBLE & MALLORY LLP

By 
Jennifer R. Jackson, California State Bar #222763
Attorneys for IndyMac Bank, F.S.B.

GLINKA & SCHWIDDE, LAW OFFICES

By 
Jess T. Schwidde
Attorneys for Debtors

CHAPTER 13 TRUSTEE

By 
Jan M. Sensenich
Chapter 13 Trustee